

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

Complaint on Sunday
and Holiday Collections

Docket No. C2001-1

RESPONSE OF THE UNITED STATES POSTAL SERVICE
IN OPPOSITION TO THE POPKIN MOTION TO COMPEL
A FURTHER RESPONSE TO DBP/USPS-14
(August 21, 2001)

On August 7, 2001, the Postal Service filed a compelled response to DBP/USPS-14. On August 14, 2001, David Popkin filed a motion to compel a further response to DBP/USPS-14. The Postal Service hereby opposes the motion to compel.

On the one hand, the motion appears to suggest that the compelled response of August 7 "does not respond to the question I asked." Motion at 2. The Postal Service submits that the compelled response does respond to the questions asked. At another point, however, the motion appears to seek a "satisfactory response." The Postal Service acknowledges that it is entirely possible that the response submitted was not "satisfactory" to Mr. Popkin. The Postal Service is unaware, however, of any standard which subjects litigants to the obligation to continue to submit discovery answers until their adversaries find those responses to be "satisfactory." If Mr. Popkin is not satisfied with truthful and accurate answers to his questions, the problem is his, not the Postal Service's, and not the Commission's. Mr. Popkin appears to be more interested in arguing than in obtaining information to develop the record.

Moreover, in his typically succinct style, he fails to articulate any coherent explanation of why he believes the answers submitted to be deficient. He quotes his

questions, but never quotes the answers. (For purposes of convenience, both the question and answer -- as previously submitted -- are attached to this pleading.) As a consequence, the Postal Service is unsure exactly how further to respond to his motion.

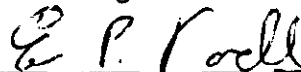
Therefore, the Postal Service respectfully requests that Mr. Popkin's August 14 motion to compel a further responses to DBP/USPS-14 be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

By its attorneys:

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August 21, 2001

DBP/USPS-14 Please refer to your response to DBP/USPS-1a. [a] Please confirm that the Postal Operations Manual is available to members of the general public. [b] Please confirm that members of the general public may properly assume that the policies, regulations, and procedures of the Postal Service that are contained in the POM will be complied with by the Postal Service. [c] Please explain any subparts that you are not able to confirm.

RESPONSE:

a. The POM is not available to the members of the general public in the sense that the DMM is available to the members of the general public. Under 39 CFR § 111.2, the DMM is available for public inspection during regular business hours at the Headquarter's library, at area and district offices, and at post offices. There is no corresponding provision regarding the POM. Were the POM intended to be widely available to the public, there would be no apparent reason why the exhibit in the POM regarding holiday service would be reprinted in the DMM. Conversely, the POM is not treated as a proprietary document by the Postal Service, and in that sense, is available to members of the general public.

b. As has been well-established long before initiation of this proceeding, neither the members of the general public nor anyone else can properly assume that provisions of the POM regarding Sunday and holiday collection service reflect current operational practices.

c. See above.

CERTIFICATE OF SERVICE

I hereby certify that, in accordance with section 12 of the Rules of Practice, I have this day served the foregoing document upon:

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